

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JUSTIN EDMISTEN,

Plaintiff,

v.

R. YANAGIHARA et al.,

Defendants.

Case No. 2:14-cv-1708-GMN-VCF

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a county prisoner. On February 10, 2015, Magistrate Judge Ferenbach issued an order directing Plaintiff to file his current address within the Court within 30 days from the date of that order. (ECF No. 2 at 2). The thirty-day period has now expired, and Plaintiff has not filed his current address with the Court or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court

1 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of
2 prosecution and failure to comply with local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey
4 a court order, or failure to comply with local rules, the court must consider several
5 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need
6 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
7 favoring disposition of cases on their merits; and (5) the availability of less drastic
8 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833
9 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.


10 In the instant case, the Court finds that the first two factors, the public's interest in
11 expeditiously resolving this litigation and the Court's interest in managing the docket,
12 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
13 in favor of dismissal, since a presumption of injury arises from the occurrence of
14 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. *See*
15 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public
16 policy favoring disposition of cases on their merits – is greatly outweighed by the factors
17 in favor of dismissal discussed herein. Finally, a court's warning to a party that his
18 failure to obey the court's order will result in dismissal satisfies the "consideration of
19 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;
20 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file his current
21 address with the Court within thirty days expressly stated: "IT IS FURTHER ORDERED
22 that if Plaintiff does not timely comply with this order, dismissal of this action may
23 result." (ECF No. 2 at 2). Thus, Plaintiff had adequate warning that dismissal would
24 result from his noncompliance with the Court's order to file his current address within
25 thirty days.

26 **IT IS THEREFORE ORDERED** that this action is **DISMISSED without**
27 **prejudice** based on Plaintiff's failure to file his current address with the Court in
28 compliance with this Court's February 10, 2015, order.

1 **IT IS FURTHER ORDERED** that the motion to proceed *in forma pauperis* (ECF
2 No. 1) is **DENIED as moot**.

3 **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgment
4 accordingly.

5 **DATED** 17th day of March, 2015.

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9 Gloria M. Navarro, Chief Judge
10 United States District Court
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